



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Bryant Isaac, Sr.,
Correctional Police Officer (S9988A),
Department of Corrections

List Removal Appeal

CSC Docket No. 2020-2685

ISSUED: JULY 2, 2021 (ABR)

Bryant Isaac, Sr., represented by Edward H. Kerwin, Esq., appeals the removal of his name from the Correctional Police Officer (S9988A), Department of Corrections (DOC) eligible list on the basis of an unsatisfactory criminal record, unsatisfactory background report, and an unsatisfactory driving record.

The appellant, a non-veteran, applied for and passed the examination for Correctional Police Officer (S9988A), which had a closing date of January 31, 2019. The subject eligible list promulgated on June 27, 2019 and expires on June 26, 2021. The appellant's name was subsequently certified to the appointing authority. The appointing authority removed the appellant's name from the subject eligible list on the basis of an unsatisfactory criminal record, unsatisfactory background report, and an unsatisfactory driving record. With regard to the appellant's criminal history, the appointing authority stated, in relevant part, that the appellant pled guilty to unlawful taking of a means of conveyance, in violation of *N.J.S.A. 2C:20-10B*, a fourth-degree crime, based on an October 11, 2006 incident, which occurred when the appellant was 28 years old. The appointing authority also asserted that the appellant possessed an unsatisfactory background report, as his record showed that he was charged with theft by unlawful taking, in violation of *N.J.S.A. 2C:20-3A*, and that in September 2015, he pled guilty to an amended charge of creating a disturbance in a public or private place, in violation of the Revised General Ordinances of the Town of Kearny, 1997 § 4-20.4, based upon an allegation that in May 2012, when he was 34 years old, he illegally took \$2,477.78 worth of electronics from a Walmart. Furthermore, the appointing authority asserted that the appellant possessed an

unsatisfactory driving record, which included violations for loading a vehicle improperly so as to spill in January 2016¹; driving after his license was suspended in February 2002, October 2004, and January 2016; unsafe lane change in October 2004; and maintenance of lamps in September 1998 and February 2002.

On appeal, the appellant argues that the record does not support the removal of his name from the subject eligible list. In this regard, he contends that his arrests and convictions were isolated incidents that occurred eight and 14 years prior to the subject certification. He states that with the October 2006 incident, he had initially signed an agreement with Enterprise Rent-A-Car (Enterprise) for a two-week vehicle rental, but subsequently found that he needed the vehicle for an additional week. He asserts that he spoke with an Enterprise representative, who extended the rental agreement for an additional week and later returned the vehicle to the Enterprise. He states that he was not aware of any issue until his arrest in 2008. He submits that he entered into a plea agreement based upon the advice of the Public Defender assigned to his case. As to the 2012 charges involving missing items Walmart, he states that he was employed as a part-time seasonal employee there in December 2009 and was never advised of any issues with his work performance.² He indicates that he was surprised by the allegation in 2012 that he was responsible for missing items, as he maintains that he properly returned the items at issue to an employee working in a storage area. He further states that the attorney he retained to represent him in this matter advised him that the cost of moving forward with a trial would be greater than accepting a plea to a local ordinance violation and restitution of the value of the items at issue. Accordingly, he accepted the plea bargain and pled guilty to creating a disturbance in a public or private place.

The appellant also maintains that his background does not provide a basis to remove his name from the subject eligible list based on a consideration of the factors outline in *N.J.S.A. 11A:4-11*, *N.J.A.C. 4A:4-7(a)(4)*, and number of prior Civil Service Commission (Commission) decisions. Concerning his driving record, the appellant states that he has only had one moving violation within the last 10 years and that the other entries in his driving record relate to parking offenses and outstanding payment of some court fines. He proffers that his driver's license suspensions were not attributable to driving infractions. Rather, he presents that they occurred because he had been unaware of certain parking tickets until after he received suspension notices. He maintains that the issues he had with parking tickets, including having a few of the tickets removed from his vehicle, are similar to the experiences of all urban residents. Regardless, he argues that his issues with parking tickets have been resolved and do not warrant the removal of his name from the

¹ Specifically, the appellant indicates that he was stopped for failing to properly remove snow from the top of his vehicle.

² It is noted that records from the New Jersey Automated Complaint System indicate that this incident occurred on May 23, 2012. The parties have not explained the discrepancy between when the appellant claims the incident occurred and the offense date listed in the aforementioned record.

subject eligible list. Moreover, the appellant also argues that his education, work history and history of volunteering in the City of Bayonne as a youth football coach all support his application for the subject title. Finally, he presents that he is on track to obtain a Bachelor's degree in December 2021 and he submits letters of support from a former supervisor, a family friend, and a Sheriff's Officer Sergeant with Hudson County.

In response, the appointing authority states, in relevant part, that it stands by its original decision to remove the appellant's name from the subject eligible list based upon an unsatisfactory criminal record, unsatisfactory background report and an unsatisfactory driving record. The appointing authority also submits records from the New Jersey Automated Complaint System and New Jersey Automated Traffic System which detail the incidents that it maintains support the removal of the appellant's name from the subject eligible list.

It is noted that the records submitted by the appointing authority indicate that the appellant's driver's license has been suspended on three different occasions from: September 1999 to March 2003, May 2003 to January 2014 and March 2014 to May 2018.

CONCLUSION

N.J.S.A. 11A:4-11 and *N.J.A.C.* 4A:4-4.7(a)4 provide that an eligible's name may be removed from an eligible list when an eligible has a criminal record which includes a conviction for a crime which adversely relates to the employment sought. The following factors may be considered in such determination:

- a. Nature and seriousness of the crime;
- b. Circumstances under which the crime occurred;
- c. Date of the crime and age of the eligible when the crime was committed;
- d. Whether the crime was an isolated event; and
- e. Evidence of rehabilitation.

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Commission to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for appointment. *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error. Additionally, the Commission, in its discretion, has the authority to remove candidates from lists for law enforcement titles based on their driving records since certain motor vehicle infractions reflect a disregard for the law and are incompatible

with the duties of a law enforcement officer. *See In the Matter of Pedro Rosado v. City of Newark*, Docket No. A-4129-01T1 (App. Div. June 6, 2003); *In the Matter of Yolanda Colson*, Docket No. A-5590-00T3 (App. Div. June 6, 2002); *Brendan W. Joy v. City of Bayonne Police Department*, Docket No. A-6940-96TE (App. Div. June 19, 1998).

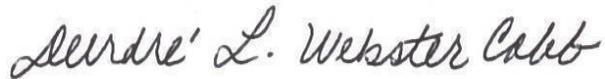
In the instant matter, the totality of the circumstances supports the appointing authority's removal of the appellant's name from the subject eligible list. The appellant's record includes convictions for unlawful taking of means of conveyance, a fourth-degree crime, based upon an October 2006 incident involving his failure to timely return a rented automobile; and a municipal ordinance violation based on a May 2012 incident involving a theft of electronics at a Walmart. It is noted that the first incident occurred approximately 12 years prior to the closing date for the subject examination and that the second occurred approximately six-and-one-half years prior to the closing date. The appellant was 28 years old at the time of the first offense and 34 years old at the time of the second offense. It cannot be said that these were isolated incidents, as both underlying incidents involved allegations of theft. Moreover, the seven violations between September 1998 and January 2016 and three driver's license suspensions in the appellant's driving record, including one suspension ending approximately eight months prior to the closing date, evidence a disregard for the motor vehicle laws and the exercise of poor judgment. The Commission notes that a Correctional Police Officer is a law enforcement employee who must help keep order in the prisons and promote adherence to the law. Correctional Police Officers, like municipal Police Officers, hold highly visible and sensitive positions within the community and the standard for an applicant includes good character and an image of utmost confidence and trust. *See Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). *See also In re Phillips*, 117 N.J. 567 (1990). The public expects Correctional Police Officers to present a personal background that exhibits respect for the law and rules. The Commission recognizes that the appellant has demonstrated significant personal achievements since 2012, including enrollment in a Bachelor's degree program and serving his community as a youth football coach. However, notwithstanding his achievements to this point, the totality of his criminal record, background report and driving record reflects poorly upon his ability to enforce and promote adherence to the law. Accordingly, the appellant has not met his burden of proof in this matter and the appointing authority has shown sufficient cause for removing him from the Correctional Police Officer (S9999A) eligible list.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 30TH DAY OF JUNE, 2021



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